162

Previous references.

G. F 38 of 1896—97

File No. 162
G. 1904—05

1905

(III Courts)

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 3

PART B FOR February 1905

SUBJECT.

Procedure in cases of appeals to be preferred to the Chief Court in criminal cases at the instance of Government.

P. T. O.

FILE No. 162 of 1904-05.

Procedure in cases of appeals to be preferred to the Chief Court in Criminal cases at the instance of Government.

1 From the Inspector General of Police, No. 3426—368, dated the 19th December 1904.
Proposes the procedure to be adopted in cases mentioned above and requests that the Chief Court may be moved to direct all Sessions Judges and Magistrates to furnish him with copies of judgments or orders in cases of acquittal due to the conduct of Police.

2 To the same, No. J. 2279, dated 10th February 1905.
States that Government Order No. 2391—400, dated 25th January 1888, enables either the Inspector General of Police or the District Magistrate to move Government, after first consulting the Government Advocate, in the matter of preferring appeals against the orders of acquittals, and that no change in this procedure is called for, and that with regard to the Inspector General's complaint about the inattention of Sessions Judges and Magistrates to Criminal Rule of Procedure, No. 7, the Chief Court will be requested to issue the necessary orders.

3 To the Registrar of the Chief Court, No. J. 2365, dated 18th February 1905.
Requests that the Chief Court will enforce greater attention being given by all Sessions Judges and Magistrates to Rule of Practice No. 7, and also instruct them to bring to the notice of the Inspector General of Police any defect or shortcoming on the part of the Prosecuting Inspectors in the conduct of any case before them.

G. R. S. 11] 1904.

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

File No. 162

FILE HEADING.

Procedure in cases of appeals to be preferred to the Chief Court in Criminal cases at the instance of Govt.

From The Inspector General of Police in Mysore

No. 3426/368 Dated 15/12/04 Received 20/12/04

Diary No. J/264	Enclos. -	Spare Copies. -	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Proposes the procedure to be adopted in cases mentioned above & requests that the Chief Court may be moved to direct all Sessions Judges & Magistrates to furnish him with copies of judgments or orders in cases of acquittal where there has been a miscarriage of justice due to the conduct of the Police.

NOTES AND ORDERS.

To secure uniformity, the Inspector General proposes the following:—

1). The Superintendent of Police to report the case fully to the District Magistrate with grounds for preferring an appeal.

NOTES—First sheet.

MGCPB—25,000—18-8-04.

G.R.S. 12]

General and Revenue Secretariat.

File No. 16 of 1904

Serial No.

Only in cases prosecuted by the Police, I presume. 1

2) The District Magistrate to forward such report to the Inspector General of Police with the District Magistrate's opinion.

3) The Inspector General to obtain the opinion of the Government Advocate and make an application to Govt. with such remarks as he may wish to offer.

Submitted for orders

24/12/04 SN 22/12/04 2 Let us up Madras & Bombay Volumes of Local Rules & Orders, & see if there is anything there about the practice in these Presidencies. 23-12-04

Submitted 3) The volumes of Local Rules & orders relating to the Madras & Bombay were gone through. No information on the subject is forthcoming.

29/12/04 SN 29/12/04 4) Perhaps the D.t Magistrate may be consulted on the proposal. Also, the Chief Court, as regards para 3 & 4 of the Govt's letter.

Seen

5) There is an order on this subject & the procedure to be adopted. Please put it up 3.1.1905

Submitted 6) The orders available is herewith put up

9/1/05 9/1/05 7) Put up a draft 3.1.1905

NOTE—Contn. sheet.

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8) Subd with a draft as personally instructed by the Secretary

NLS 18/1/05 NLL 18.1.05

9) Draft Order to carry the draft is said to have been prepared as personally instructed by the Secy.

Hon 23.1.05

Draft submitted to the Devanahalli Thro the 2nd Councillor &

1601/26.1.1905 25.1.1905

10) As I understand the case, there are only 2 points for determination viz

(1) Who should move the Government to prefer an appeal and whether he should do so before or after consulting the Govt. Advocate & (2) whether the Chief Court should not be requested to Kindly order a Circle Reference by one Sessions Judge & Magistrate to the Commissioner of Police

NOTE—Contn. sheet.

Serial No.

Practice No 7 dated 8/7/78.

As to para 20(1) I think it is the District Magistrate that should take the needful action either suo motu or on the motion of the Superintendent of Police and in consultation if necessary with the D.G.P. of Police. When he declines to take the action recommended by the Supdt of Police or the D.G.P. of Police, he should acquaint the latter with the fact in view to his (D.G.P.) himself making an application to Govt in case he need reason to differ. In all such case and ~~much~~ to where extraordinary urgency such as above mentioned bar the adoption of such a course the Govt Advocate should be consulted before Govt is asked to prefer an appeal.

As to para (2) there seems no harm in asking the Chief Court to draw the

Note—Contn. sheet.

General and Revenue Secretariat.

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Serial No.

attention of our Superior Judges & Magistrates to Rule of Practice No 7, since Mr Carr seems to think that the requirements thereof are not invariably being strictly complied with.

(1) If Mr Carr wants any thing more done (and on this point his communication is not very clear), I cannot say that Govt. considers the existing Orders insufficient and are not aware of any new ones being issued.

C.

2 Nov 05 — 30/11/05 — 30/11/05

16/1-05.

31 — (2) I cannot think any changes in the existing practice and orders is

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General and Revenue Secretariat.

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Serial No.

called for, the D.C. Knight is the person authority who should move in the matter of appealing against the order of acquittal & the Sessions Judge or Knight. He may be guided to do so the Police officer may bring the matter to the notice of the D.C. who may or may not consult the D.C. Knight according to the urgency or otherwise of the circumstance of the case and proceed further in consulting Govt. advocate and in case Govt. is advised to prefer an appeal. Copies of judgments are immediately sent to D.C. for perusal & on such a step may be taken may consult to take proper

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in the matter returned
they contain any orders
of the court as to the
future conveyance of the
express consent. If there
is nothing to prevent
the Prosecuting Inspector
to take a copy of such
judgements and submit
the same to his Superior
Officer.

D. Murphy
Draft submitted to the Hon'ble
Devan Sahib &
4:2:1905

45 gr
6.2.05.

13) Done the copy as required by
the Devan, & then prepare
another Petition of the Registrar Chief Court
referring to the other ~~from~~ question raised
by Mr Carr, & requesting enforcement
of Rule of Practice No 7 (clerk as per
3 of the copy)

Mr
9/2/05

To Bowls, for a draft letter
Ch. Ct as directed above 14) Draft to Registrar, Chief Court

SN
15/2/05

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General and Revenue Secretariat.

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B Rec. 24/2/05

is submitted for approval

Pg 25/2 SW 15/2/05

(Cg) Mi 16.2.05

14) Passed 16.2.05

2. To the D.G. of Police. No. 2379, d/ 10-2-05.

States that G.O. No. 2391-400, d/ 25-1-88, enables either the D.G. of Police or the Dt Magistrate to move the Govt, after first consulting the Govt Advocate, in the matter of appeals against orders of acquittal, and that no change of this procedure is called for, and that with regard to the D.P's complaint about the ~~non-receipt of reports from the Magistrate as to the disposal of cases in cases due to the conviction or acquittal~~ inattention of the Sessions Judge, Magistrate to Criminal Rules of practice, ~~state that~~ the Chief Court will be requested to issue the necessary orders. ~~enforce attention to that Rule~~

3. To the ~~Chief~~ Registrar of the Chief Court No. 2365, d/ 18-2-05.

Requests that the Chief Court will enforce greater attention being given by all Sessions Judges & Magistrals to Rules of Practice, and also instruct them to bring to the notice of the D.P. of Police any defect or shortcoming on the part of the Prosecuting Inspectors in the conduct of any case.

NOTE—Contn. sheet.

MGCPB—20,000—1-11-04.

III
Chief Court's

J. 1284

1904-05.

Sl. 201

From

F. R. C. Carr Esquire,
Inspector General of Poli
in Mysore.

To

B.K.Venkatavaradaiengar Esqr
Secretary to the Govt.
of H.H. the Maharaja
of Mysore.

Subt-Inspectors M/Coms

General and Revenue Departments

Dated
Despatched 19th December 1904
Received
General No. 3426
No. 368
Enclosure No.

Stating that for reasons mentioned herein, the Hon'ble the Chief Court may be moved to direct all Sessions Judges & Magistrates to furnish the I. G. of Police with copies of Judgments in all cases of acquittal or discharge & also proposing that for the sake of uniformity the procedure laid down in the matter of review of orders may be adopted.

J 12 84

Office of the
Inspector General of Police in Mysore.

NO: 3426/368 Dated Bangalore, 15th. December 1904.
19"

From

F. E. C. Carr Esquire,
Inspector General of Police in Mysore.

To

B. K. Venkatavaradaiengar Esquire,
Secretary to the Government of
His Highness the Maharaja of Mysore,
General and Revenue Departments.

Sir,

I have the honor to state that ~~that~~ there is no uniformity in the procedure adopted in requesting Government to move the Honorable the Chief Court in the matter of review of orders of acquittal passed by Magistrates and Sessions Judges. In some instances District Magistrates, on the motion of Police Superintendents make applications direct to Government without previously obtaining the opinion of the Government Advocate, while in others the opinion of the Government Advocate is obtained before Government is moved in the matter.

(2) Again the papers are not submitted through the Inspector General of Police, who is entirely in the dark with regard to the reasons which have led the District Magistrate to make the application. It being of great importance that the Inspector General should be kept acquainted with all such cases, I would propose that the following uniform procedure may be adopted:-

1. The Superintendent of Police to report case fully to District Magistrate with grounds for preferring an appeal

appeal.

2. The District Magistrate to forward such report to the Inspector General, with his opinion.

3. The Inspector General to obtain the opinion of the Government Advocate, and make an application to Government with such remarks as he may wish to offer.

(3) While on this subject, it will not be out of place to remark, that at present the Inspector General has no means of knowing the grounds of acquittal of cases by Magistrates, except through the reports of District Police Officers, which are often meagre and inefficient. In rule of practice No. 7 dated the 8th. July 1878 issued by the late Chief Commissioner it is laid down " that all Sessions Judges and Magistrates , when they find it necessary to remark in their Judgments upon the conduct of the Police, will send copies of their Judgments, and of so much of the evidence as is necessary to show the conduct of the police adverted upon, to the Inspector General of Police, as well as to the District Magistrate."

It often happens that the breakdown of good cases, in Courts, is directly attributable to the laxity of the investigating Police, as also to the want of care and attention by the prosecuting Officer. As a separate prosecuting agency has now been constituted, it is a matter of necessity that the Inspector General should be kept informed of the views of Magistrates and Sessions Judges, in cases which end in aquittal or discharge.

(4) I would therefore request that the Government may be pleased to move the Honourable the Chief Court to direct all Sessions Judges and Magistrates, to furnish the Inspector General of Police with copies of Judgments or orders, in all cases of aquittal or discharge, in which the conduct of the Police has led to a miscarriage of Justice.

I have the honor to be,
Sir,
Your most obedient servant,

Inspector General of Police.

G.R.S. 26]

File No. 62

Serial No 2

Diary No. of letter replied to J 1284

No. J 2279
C: 162-2

General and Rev. Secretariat
(Courts.)
, *the* 10/2/ 1905.

Date of issue 10/2/05

Signed by Mr: K.S. Chandra Sekhara Aiyar

To

The Inspector General of Police
in Mysore, Bangalore

Sir,

I am directed to acknowledge the receipt of your letter No. 3426/368 dated the 15th December 1904, forwarding a proceedings stating that there is no precedent in the adopted in such cases requesting Government to have the Sheriff of the Bench Court in the matter of reviewing of acquittal passed by Magistrate and Sessions Judge & submitting proposal as to the procedure to be adopted in such cases.

2. In reply, I am to invite

over.

Seen
15/2/05

Seen
20/2

SUBJECT.

Read
18.2.05.

your attention to Government
Order Camp No 2351-400 dated the
25th January 1868, under which
it is obligatory on the part of the
District Magistrate or the Inspector
General of Police to obtain the
opinion of the Government Pleader
before the Government is moved
to sanction the institution of
the appeals against orders of
acquittal ~~passed in any important~~
~~criminal case~~, and to state that
~~While~~ the orders referred to above
enables either the District Magte
or the Insp^r General of Police to
move Government in the matter
independently, ~~your proposal~~
~~to the effect of making the~~
~~District Magistrate subordinate~~
~~to the Inspector General of Police~~
~~in the matter and is not therefore~~
~~acceptable to Government.~~

3. With reference to para
4 of the letter under reply, I

H. S

List of enclosures,

No change of this
procedure is called
for. In cases where
there is a difference of
opinion between the
Insp^r General of Police & the
District Magistrate regarding
the advisability of
moving the Govt to
file an appeal either
Copied by
Examined by
the matter the opinion
which may prevail
should be placed
before Government.

MGCPB—20,000-19-12—04.

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

R 2

~~has suspected~~

I am representing the Chief Court to enforce greater attention being given to Rule of Practice No. 7 of 1878 by all the Courts and also when writing with reference to the 29 of Police any defect or short coming on the part of Prosecuting Inspectors in the conduct of any case

7. II. 05

I am to state that ~~the Government think it~~ unnecessary to address the Chief Court, as Clause VII of the Rule of Practice No. 61 of the Chief Court affords every facility to an officer of Police who wishes to inspect the records of any criminal Trial or appeal with a view to the detection or prevention of any crime or to the examination of the Conduct of Police Officers connected with the Case; that under clauses V & VI thereof, a Criminal Court has to send copies of its judgement or order to the Head of the Department which institutes the prosecution before that Court & that the Head of the Dept can obtain copies of the entire record, (other than copies of the judgment ~~order~~), connected with the Case by applying to the Sessions Judge ~~or President Magistrate~~ and by deputing a Clerk or other officer to take copies thereof.

23. 1. 05 25/1/05

Secretary

Issue
G. 2. 1905

Copied & examined 10/2/05

10/2/05

18/1/05

18-1-05

6

G.R.S. 26]

Copy for appl.

File No. 162

Serial No. 3

Diary No. of letter replied to _____

No. 2365
C: 162-2

General and Rev. Secretariat
(Courts
, *the* 18/2/ 1905.

Date of issue 18/2/05

Signed by Maj: K.B. Chandrasekhara
Asstt

To

The Registrar of the
Chief Court of Mysore

Sir,

I am directed to bring to the notice of the Chief Court that the I. G. of Police complains that he has, at present, no means of knowing the grounds of acquittal of cases by Magistrates, except those reported by the Magrs and insufficient reports of the District Police officers. The breakdown of good cases in Court may, the I. G. thinks, often be due to the laxity of the investigating police as also to want of care and attention on the part of the prosecuting officer.

Now that a separate over.

SUBJECT.

prosecuting agency has been constituted, it is a matter of necessity that the D. G. P. should be kept informed of the views of the Sessions Judges & Magistrates in all cases, either of acquittal or discharge, in which the conduct of the Police has led to a miscarriage of Justice. I am therefore to request that the Chief Court may be moved so as to issue (such) a Circular directing all the Sessions Judges and Magistrates to Criminal Rule of Practice No 7, dated the 8th July 1878, and also to which them to bring to the notice of the D. G. P. any defect or shortcoming on the part of the Prosecuting Inspectors in the conduct of any case.

I have &c

Dewan Rich

16.2.1905

16/2/05 Secy

15/2/05

List of enclosures,

Copied by 17/2/05

Examined by 17/2/05